IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1813 of 2007()

CMP.1065/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER:

MANIKANTAN, S/O SASIDHARAN,
NEDIYAVILA VEEDU, THINAVILA DESOM,
KEEZHATTINGAL VILLAGE.

BY ADV. SRI.PRAKASH P.GEORGE
SRI.B.PREMNATH

RESPONDENTS:
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1. SUB INSPECTOR OF POLICE,
CHIRAYINKEEZHU POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE REVENUE DIVISINAL OFFICER,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1813 of 2007

Dated this the 12th day of June 2007

O R D E R

The petitioner has come to this court aggrieved by the rejection of his claim for release of a vehicle seized on the allegation that it was involved in illicit transportation of river sand.

2. The learned Public Prosecutor was directed to take instructions. The learned Public Prosecutor fairly does not oppose the prayer for release on appropriate conditions. The vehicle has been seized by the police. It is now detained in the custody of the police. That fact was reported to the learned Magistrate in response to the application under Section 457 Cr.P.C. In these circumstances, I am satisfied that directions can be issued under Section 457 Cr.P.C. it having been satisfied that no order has been passed by the District Collector under Rule 27 of 'The Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002'. A report has been submitted to the District Collector about the seizure of the vehicle by the police, it is submitted.

3. I am satisfied that subject to appropriate conditions, vehicle can be released to the petitioner. In coming to this conclusion, I take note of the dictum in Sunderbhai Ambalal Desai vs. State of Gujarat [SC 2003(2) KLT 1089]. The courts must zealously ensure that the unfortunate scene of vehicle deteriorating in the custody of the court and the police should be avoided.

4. In the result, this petition is allowed. The vehicle in question shall be released to the petitioner on the following terms and conditions.

(i) He shall produce all documents before the learned Magistrate to show that he is the owner entitled to the possession of the vehicle.

(ii) He shall execute a bond for an amount equal to the value of the vehicle as ascertained and fixed by the learned Magistrate. He shall also furnish a cash security of Rs.25,000/- (Rupees twenty five thousand only).

(iii) The petitioner shall, in the bond to be executed by him, undertake to produce the vehicle before the court or before any other authority as the court may direct from time to time.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007